

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RSG, INC., a South Dakota)	
Corporation, R GROUP, INC., an Iowa)	
Corporation, and RANDALL S.)	
GOLDEN, an Individual,)	8:06CV507
)	
Plaintiffs,)	
)	
v.)	ORDER
)	
SIDUMP'R TRAILER, Company INC., a)	
Delaware Corporation,)	
)	
Defendant.)	
_____)	

This matter is before the court on the objection to jury instructions filed by plaintiffs/counter-defendants RSG, Inc., R Group, and Randall Golden (hereinafter, collectively, Golden), Filing No. [268](#); Golden's objection to deposition testimony, Filing No. [273](#); and defendant/counterclaimant Sidump'r Trailer Company's (Sidump'r) objection to deposition testimony, Filing No. [276](#).

Sidump'r has designated portions of the deposition testimony of Jennifer Thompson. Golden objects to the designation, contending that Thompson will be available for trial and also arguing that her deposition cannot be used for any purpose because she did not waive her right to read and sign her deposition and did not read or sign it.

Golden has designated portions of the deposition testimony of Nicholas van Pelt if he is unavailable; portions of Sidump'r's Fed. R. Civ. P. 30(b)(6) deposition, and portions of Darling Sons International, LLC's Fed. R. Civ. P. 30(b)(6) deposition. Sidump'r objects, contending that the witnesses will be available for trial, and contending that certain

testimony relates to contract interpretation issues that the court has ruled on. Sidump'r reasserts foundation objections made at the Darling Sons' deposition

Golden's objections to the court's initial jury instructions have been noted for the record and are overruled. The court finds that deposition testimony will not be admitted if witnesses are available to testify. Testimony that invades the province of the court will not be admitted. The court will address foundational objections in the event a witness is not available at trial and deposition testimony is offered. The parties' objections to deposition designations are overruled in all other respects.

THEREFORE, IT IS ORDERED that:

1. Golden's objections to jury instructions (Filing No. [268](#)) are overruled.
2. Golden's objections to deposition testimony (Filing No. [273](#)) are sustained in part and overruled in part.
3. Sidump'r's objections to deposition testimony (Filing No. [276](#)) are sustained in part and overruled in part.

DATED this 2nd day of April, 2010.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge

*This opinion may contain hyperlinks to other documents or Web sites. The U.S. District Court for the District of Nebraska does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the court has no agreements with any of these third parties or their Web sites. The court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the court.